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MAY 24 2005

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY
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9 UNITED STATES DISTRICT COURT
10 FOR THE EASTERN DISTRICT OF CALIFORNIA

11 UNITED STATES OF AMERICA,)
12 Plaintiff,)
13 v.)
14 SEREY VAN,)
15 Defendant.)
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Case No. Mag. 05-053 PAN
STIPULATION REGARDING
EXCLUSION OF TIME UNDER
SPEEDY TRIAL ACT; [PROPOSED]
ORDER

S C A N N E D	Initials	<i>[Signature]</i>
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18 Plaintiff United States of America, by and through its
19 counsel of record, Assistant United States Attorneys S. Robert
20 Tice-Raskin and Courtney J. Linn, and defendant, by and through
21 her counsel of record, Robert Holley, hereby stipulate as
22 follows:

- 23 1. The Complaint in this case was filed on or about
24 February 22, 2005.
- 25 2. Defendant was arrested on February 23, 2005. Defendant
26 first appeared before Magistrate Judge Peter Nowinski, a judicial
27 officer in the court in which this charge is pending, on February
28 24, 2005.

1 3. Defendant has been advised of her rights as required by
2 Rule 5, Fed. R. Crim. P., including her right to have a
3 preliminary hearing.

4 4. By previous stipulation and order, defendant waived her
5 right to a preliminary hearing.

6 5. The Speedy Trial Act of 1974, 18 U.S.C. § 3161 et seq.,
7 requires that an indictment or information be filed against
8 defendant on or before 30 days of her arrest, i.e., on or before
9 March 26, 2005. By previous stipulation and order, defendant
10 moved to extend the deadline for filing of charges to May 27,
11 2005.

12 6. By this stipulation, defendant moves to extend the
13 deadline for filing of charges to July 1, 2005. Plaintiff does
14 not oppose this request.

15 7. The parties agree and stipulate, and request that the
16 Court find the following:

17 a) The government has made a package plea offer to
18 defendant and her spouse, Thomas Van. Counsel for defendant
19 desires additional time to consult with his client, to review the
20 current charges, to conduct investigation related to the charges,
21 to review discovery, and to review and discuss the potential pre-
22 indictment disposition of the charges with the government.

23 (Thomas Van is still in the process of obtaining representation
24 and will need adequate time to address to conduct these tasks as
25 well with his counsel).

26 b) Counsel for defendant believes that failure to
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1 grant the above-requested extension would deny him the reasonable
2 time necessary for effective preparation, taking into account the
3 exercise of due diligence.

4 c) The government does not object to the continuance.

5 d) Counsel for defendant has specifically discussed
6 all of the contents of this stipulation with his client and
7 represents that his client concurs with the contents of this
8 stipulation.

9 e) Based on the above-stated findings, the ends of
10 justice served by continuing the case as requested outweigh the
11 interest of the public and the defendant in charging within the
12 original dates prescribed by the Speedy Trial Act.

13 f) For the purpose of computing time under the Speedy
14 Trial Act, 18 U.S.C. § 3161, et seq., within which an information
15 or indictment must be filed, the time period from May 27, 2005 to
16 July 1, 2005, inclusive, is deemed excludable pursuant to 18
17 U.S.C. § 3161(h)(8)(A) and B(iv) because it results from a
18 continuance granted by the judge at defendant's request on the
19 basis of the judge's finding that the ends of justice served by
20 taking such action outweigh the best interests of the public and

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1 the defendant in speedy formal charging.

2 IT IS SO STIPULATED.

3 DATED:

4 5/23/05

5 Tice-Raskin
6 S. ROBERT TICE-RASKIN
7 Assistant United States Attorney

8 DATED: 5/20/05

9 Robert Holley by Thanh Fox
10 ROBERT HOLLEY
11 Counsel for Defendant

12 ORDER

13 IT IS SO FOUND AND ORDERED.

14 May 23, 2005.

15 GREGORY G. HOLLOWS

16 UNITED STATES MAGISTRATE JUDGE
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CERTIFICATE OF SERVICE BY MAIL

The undersigned hereby certifies that she is an employee in the Office of the United States Attorney for the Eastern District of California and is a person of such age and discretion to be competent to serve papers; that on May 24, 2005, she served a copy of the attached **STIPULATION REGARDING EXCLUSION OF TIME UNDER SPEEDY TRIAL ACT; [PROPOSED] ORDER** by placing said copy in a postpaid envelope addressed to the person(s) hereinafter named, at the place(s) and address(es) stated below, which is/are the last known address(es), and by depositing said envelope and its contents in the United States Mail at Sacramento, California.

Served By US Mail:

Addressee(s):

Robert Holley, Esq.
331 J Street, Suite 200
Sacramento, CA 95814

/s/ Gwen Lincoln
GWEN LINCOLN